

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of  
VON BORSTEL  
Serial No. 09/763,955  
Filed: February 28, 2001



Atty. Ref.: 1331-334

TC/A.U.: 1623

Examiner: Patrick T. Lewis

**For: COMPOSITIONS AND METHODS FOR TREATMENT OF  
MITOCHONDRIAL DISEASES**

October 5, 2006

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

# **INFORMATION DISCLOSURE STATEMENT**

As suggested by 37 C.F.R. 1.97, the undersigned attorney brings to the attention of the Patent and Trademark Office the references listed on the attached form PTO/SB/08a. This is not to be construed as a representation that a search has been made or that no better prior art exists, or that a reference is relevant merely because cited.

The Examiner is requested to initial the attached form PTO/SB/08a and to return a copy of the initialed document to the undersigned as an indication that the attached references have been considered and made of record.

The attached two references were cited less than three months ago during prosecution of a Korean application in the name of Robert Naviaux corresponding to a U.S. application in the name Robert Naviaux of record in this case. Applicants are aware of their issued US patent 5,691,320 (listed in the attached PTO/SB/08a), but the '320 US patent was not previously cited in the present case as it is believed not to be material. Now that the Applicants have been made aware of the citation of the '320 US patent in the Naviaux Korean application, it is being made of record in the present case along with the Vary reference.

Pursuant to Rule 37 C.F.R. §1.97(c), a fee of \$180.00 as specified in Rule 17(p) is attached. If there is any shortage in the fee, please charge the deposit account of Nixon & Vanderhye, Account No. 14-1140.

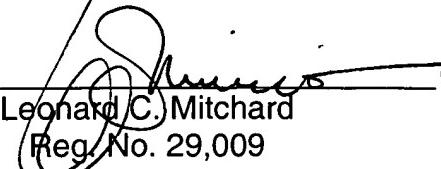
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VON BORSTEL  
Serial No. 09/763,955

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: \_\_\_\_\_

  
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Sheet 1 of 1

**INFORMATION DISCLOSURE  
CITATION**

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U.S. PATENT & TRADEMARK OFFICE

ATTY. DOCKET NO.

SERIAL NO.

1331-334

09/763,955

**APPLICANT**

VON BORSTEL

(Use several sheets if necessary.)

FILING DATE

TG/A II

February 28, 2001

1623

## **U.S. PATENT DOCUMENTS**

## FOREIGN PATENT DOCUMENTS

**OTHER DOCUMENTS (including Author, Title, Date, Pertinent pages, etc.)**

Vary, "Increased pyruvate dehydrogenase kinase activity in response to sepsis", Am. J. Physiol. (1991, May; 160 (5 Pt 1): E669-74

\*Examiner

### Date Considered

Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to application.